

**LFC Requester:****Connor Jorgensen**

**AGENCY BILL ANALYSIS  
2016 REGULAR SESSION**

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*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

**Original**      X   **Amendment**          

**Correction**           **Substitute**          

**Date** January 19, 2016

**Bill No:** SB 69 - 305

**Sponsor:** Senator Michael Padilla

**Agency Code:** 305

**Short**    Campaign Finance Bureau and

**Person Writing**    Sally Malavé

**Title:**    Bank

**Phone:** 827-6031

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB 80, HJR 5, SB 11 and SB 12

Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE****BILL SUMMARY**

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

**Synopsis:**

SB 69 adds new provisions to the Campaign Reporting Act, NMSA 1978, Sections 1-19-25 to -37 (1979), as amended ("CRA"). Section 1 of SB 69 creates a campaign finance bank, which shall be governed, operated, managed and controlled by a campaign finance bank board. While the bank shall be an instrumentality of the state for purposes of the Tort Claims Act, no other laws applicable to state agencies shall be applicable to the bank unless specifically stated in SB 69. The bank shall not be conducted for the purpose of making profit, as all revenues generated by the bank shall be used to pay for operations and expenses of the bank and the board. Its transactions are limited to those allowed by SB 69.

Section 2 creates the campaign finance bank board, administratively attached to the campaign finance bureau of the Secretary of State's Office ("SOS). The board shall consist of 4 members. The Governor, Chief Justice of the Supreme Court, Senate President pro tem, and Speaker of the House of Representative each appoint one member with expertise in banking, lending and finance, for staggered four-year terms. No two members may be of the same political party, nor may any member hold other public office. The board shall select one member to serve as its chair for a four-year term and elect a vice chair annually. Vacancies shall be filled by the appointing entity for the unexpired term. The board is authorized to hire staff and set their compensation.

Section 3 delineates the powers and duties of the campaign finance bank board, including the power to sue and be sued, make bylaws, fix, charge and collect fees for bank services, enter into contracts, and do any and all things necessary to carry out its purposes.

Section 4 addresses the campaign finance bank's operations. The bank shall: (1) provide banking services to all candidates and entities that establish or maintain campaign fund accounts pursuant to the CRA; (2) accept contributions on behalf of each candidate or entity that has an account with the bank and notify the account holder of each contribution received and credited to the account holder's account; (3) make available for public inspection the current financial status of each campaign finance bank account; (4) provide quarterly reports of all of its activities to the board. In addition, the SOS campaign finance bureau is charged with evaluating the expenditures made by a candidate or other account holder is a legal expenditure of the campaign. If the bureau determines CRA does not allow certain

expenditure, it shall direct the bank not to approve any withdrawal of funds for the expenditure.

Section 5 creates the campaign finance bureau in the office of the SOS. The bureau, in conjunction with the campaign finance bank board, shall oversee the operations of the bank, administer the provisions of the CRA and the Voter Action Act.

Section 6 amends Section 1-19-26 of the CRA to add "campaign finance bank" to the definition of "bank account."

Section 7 amends Section 1-19-26.1 of the CRA, relating to the registration of political committees, to require a political committee to include either the name of its bank or the account number of the campaign finance bank account in its statement of organization.

Section 8 amends Section 1-19-34 of the CRA, relating to contributions to candidates and political committees, by adding a new subsection that requires each person that opens an account with the campaign finance bank to inform potential contributors to make all contributions directly to the campaign finance bank for credit to the person's account.

**FISCAL IMPLICATIONS** May have fiscal implications for this office, as the campaign finance bank board will need legal counsel independent of the SOS campaign finance bureau, and the bureau may need legal counsel independent of SOS legal counsel. SB 69 is silent regarding the issue of legal representation.

**SIGNIFICANT ISSUES** It appears that the decision to bank with the campaign finance bank is at the discretion of the candidate or political committees.

SB 69 does not address to what extent state banking laws may or may not be applicable to the campaign finance bank. In addition, state law requires that all payments made to the state be deposited within 24 hours. SB 69 does not address how cash and check receipts will be handled. Will campaign finance bank deposits be deposited with the State Treasurer? Assuming that candidates and political committees receiving donations throughout the state, it appears that all deposits must be made in Santa Fe.

SB 69 is silent as to who shall be provide legal counsel to the campaign finance bank or its board.

**PERFORMANCE IMPLICATIONS** May have performance for this office, as the campaign finance bank board will need legal counsel independent of the SOS campaign finance bureau, and the bureau may need legal counsel independent of SOS legal counsel. SB 69 is silent regarding the issue of legal representation.

**ADMINISTRATIVE IMPLICATIONS** None to this office.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP** HB 80, HJR 5, SB 11 and SB 12 each relate to SB 69

**TECHNICAL ISSUES** None.

**OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL** Status quo. Currently, Section 1-19-29.1 limits the purposes for which a candidate or candidates agent may expend contributions. Section 1-19-32.1 authorizes the SOS to conduct a thorough examination of at least 10% of all reports filed during a year. Section 1-19-34 of the CRA requires candidates and political committees to appoint a treasurer and establish and maintain a separate bank account to which all receipts of money contributions and all expenditures of money are deposited in and disbursed from the one bank account.

**AMENDMENTS** Contemplate a five- member board. Four-member board may have tied votes, which may result in inaction.